

REMARKS

Claims 1, 3, and 5 have been amended. New claim 6 has been added. The application as amended contains 6 claims. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

The title is objected to as being not descriptive. Reconsideration is respectfully requested. The title has been amended to be more clearly indicative of the invention to which the claims are directed.

Claims 1 and 4 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mochizuki (U.S. Patent No. 6,097,814) in view of Otsuka (U.S. Patent No. 6,094,723). Reconsideration is respectfully requested. Claim 1, as amended, recites an optical recording medium wherein "updated software is stored first in ... said computer, and subsequently in said optical recording medium." This is an important aspect of the claimed invention.

In a preferred embodiment of the invention, as shown in figure 3, the software is updated on the HDD of a computer (S12), then the software is updated on the optical disk (S13). Neither Mochizuki nor Otsuka discloses or suggests "updated software ... stored first in ... said computer, and subsequently in said optical recording medium." Otsuka discloses writing upgraded application programs first to the disk, and using the disk as a gatekeeper to decide whether to allow the software to be written to the computer. This is different from the present invention, wherein the computer receives updated software first before it is written to the optical recording medium. Therefore, the rejection of claim 1 should be withdrawn. Claim 4 should be allowable along with claim 1, and for other reasons.

Claims 2, 3, and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mochizuki in view of Otsuka in view of Shaw (U.S. Patent No. 6,381,741). Reconsideration is respectfully requested. Claims 3 and 5, as amended, recite an optical recording medium and a method of updating software, wherein "updated software is stored first in ... said computer, and second in said optical recording medium." As described above, this is an important aspect of the claimed invention. None of Mochizuki, Otsuka, or Shaw discloses or suggests the recited limitation.

With respect to claim 2, the use of Mochizuki, with the modification of supplementing the Shaw disclosure, with the further modification of adding Otsuka, would not have been obvious to one of ordinary skill in the art. The references provide no motivation to combine the cited references to arrive at the claimed invention. The mere fact that it might be possible to combine isolated disclosures to recreate an invention does not render the invention obvious, unless the prior art suggests the desirability of the proposed combination.

Here, there is nothing in Mochizuki, Shaw, or Otsuka to suggest the proposed combination. Mochizuki and Otsuka relate to different systems, attempting to protect software from illegal copying in very different ways. Neither gives any suggestion of combining the two methods, and they may even be incompatible, since Otsuka uses the disk as a gatekeeper between the computer and software distributor, and Mochizuki requires direct communication between the computer and software distributor. Further, neither Mochizuki nor Otsuka suggests using software updates as disclosed in Shaw. Therefore, the rejection of claim 2 should be withdrawn.


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Allowance of the application is solicited.

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